

**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Elohim Group Corporation	)	File No. EB-FIELDSCR-18-00026310
Licensee of Station W228DF	)	
	)	
Facility ID: 156373	)	
	)	
Orlando, Florida	)	

**NOTICE OF VIOLATION**

**Released: March 8, 2019**

By the Regional Director, Region Two, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules),<sup>1</sup> to Elohim Group Corporation (Elohim), licensee of FM translator station W228DF in Orlando, Florida. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On April 25, 2018, based on a complaint of interference, agents of the Enforcement Bureau’s Miami Office conducted an inspection of station W228DF and found the following violations:

- a. 47 CFR § 73.1251(b)(2): “Formal application on FCC Form 349 is required of all permittees and licensees for any of the following changes: ... A change in transmitting antenna system, including the direction of radiation or directive antenna pattern.” According to its license in effect at the time of inspection, Elohim was authorized to operate radio station W228DF on 93.5 MHz with 10 watts effective radiated power (ERP), at 50 watts transmitter power output (TPO), using a JAMPRO JLLP-1 single-bay antenna. On April 25, agents observed that W228DF was transmitting on 93.5 MHz using a JAMPRO JLLP-2 double-bay antenna, which provides 3.03 dB (or 2.01 times) more gain than the single-bay antenna, which, in itself, would double the station’s ERP. An agent observed that the TPO reading was 32 watts.

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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During the inspection, Elohim's station engineer stated to an agent that the station was operating with the double-bay JLLP-2 antenna, but that the TPO was adjusted to 32 watts in an attempt to comply with the authorized ERP. Elohim did not file a formal application to change its transmitting system.

- b. 47 CFR § 73.1251(b)(7): "Formal application on FCC Form 349 is required of all permittees and licensees for any of the following changes: ... Any increase in authorized effective radiated power." On April 25, in response to an agent's questions regarding the interference complaint, Elohim's engineer admitted that W228DF was previously operating at 100 watts TPO without authorization, and that several weeks prior to the inspection, only after he learned that the station was being investigated, he lowered the power to 32 watts TPO. The engineer provided calculations showing that at 32 watts TPO, and with the double-bay antenna, the resulting ERP was 11.78 watts, which is 117.8 percent of the authorized ERP of 10 watts. Based on those calculations, when the station was operating at 100 watts TPO, the resulting ERP was approximately 36.8 watts, which was 368 percent of the authorized ERP. Elohim did not file a formal application to increase its authorized ERP.
- c. 47 CFR § 73.1235(e): "In no event shall a station authorized under this subpart be operated with a transmitter power output (TPO) in excess of the transmitter certificated rating. A station authorized under this subpart for a TPO that is less than its transmitter certified rating shall determine its TPO in accordance with § 73.267 of this chapter and its TPO shall not be more than 105 percent of the authorized TPO." On April 25, in response to an agent's questions regarding the interference complaint, Elohim's engineer admitted that W228DF was previously operating at 100 watts TPO (with the higher gain double-bay antenna) which was 200 percent of the authorized TPO of 50 watts authorized by its license in effect at that time.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Elohim must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Elohim to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

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officer of Elohim with personal knowledge of the representations provided in Elohim's response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. specified above, and mailed to the following address:

Federal Communications Commission  
Office of the Director – Region Two  
P.O. Box 1493  
Powder Springs, GA 30127  
FIELD@FCC.GOV

6. This Notice shall be sent to Elohim at its address of record and its counsel, Dan J. Alpert, 2120 N. 21<sup>st</sup> Road, Arlington, VA 22201.

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<sup>5</sup> Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

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Ronald Ramage  
Director – Region Two  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).